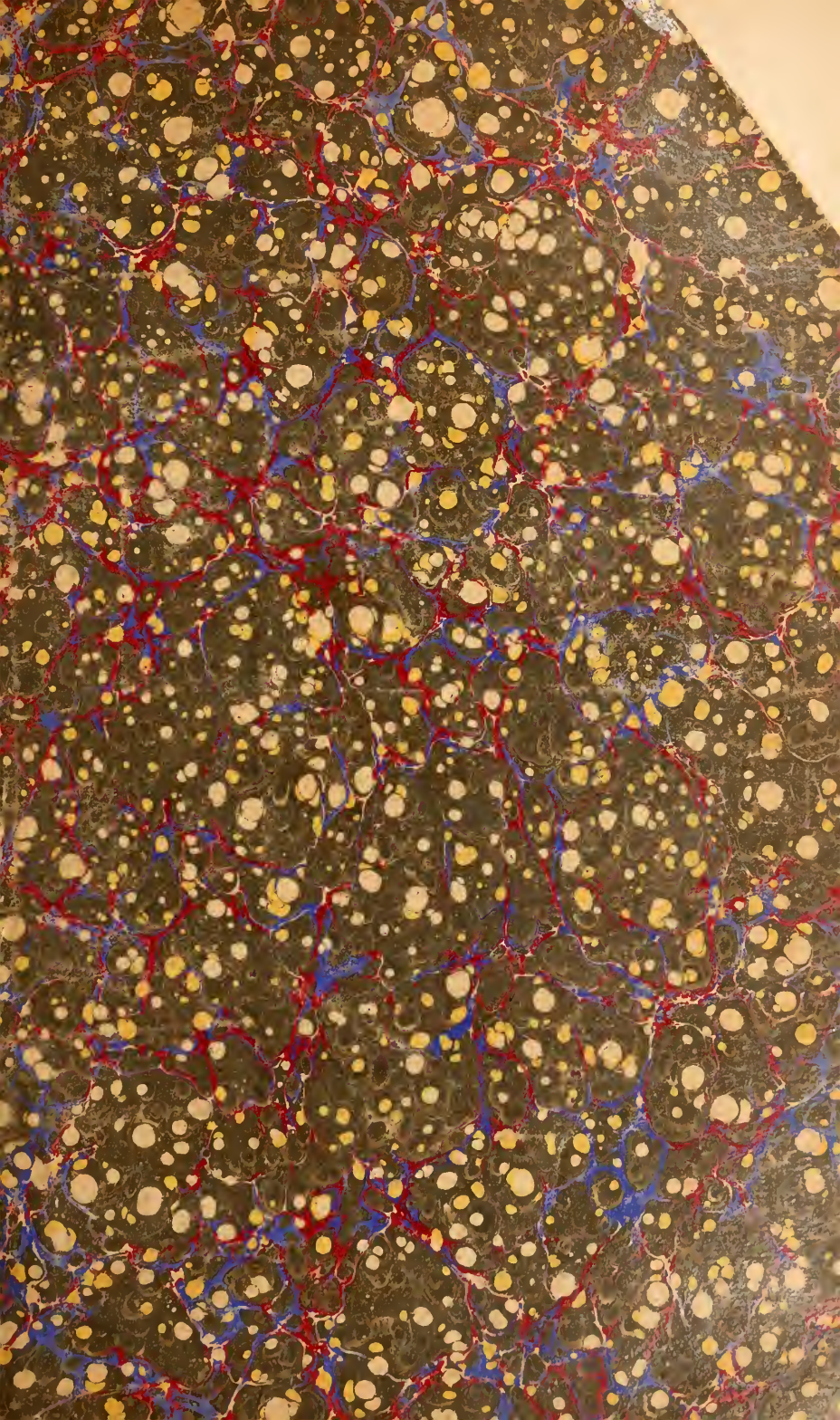




★
LIBRARY
OF THE
UNIVERSITY OF CALIFORNIA.
GIFT OF

Received *Feb*, 188*9*.
Accessions No. *38215* Shelf No.



ON THE SUBJECT
OF
REVENUE AND TAXATION,
IN THE
ASSEMBLY OF CALIFORNIA.

FEBRUARY 25TH, 1880.

BY THE
HON. C. HARTSON.

LIBRARY
UNIVERSITY OF
CALIFORNIA

This Speech is published at the special request of those
who supported the important principles
advocated therein.

Assembly Bill No. 401 was taken up March 1st, 1880. Read third time. The roll was called, and the bill passed by the following vote:

AYES—Messrs. Adams, Anthony, Bass, Bennett, Brooks, Brown of Sonoma, Brown of Yuba, Bruner, Brusie, Burns, Carr of Sacramento, Carr of Yuba, Chamberlain, Chandler, Cook, Cooper, McGorran, Cuthbert, Del Valle, Estey, Finlayson, Fraser, Frink, Garibaldi, Gaffey, Gorley, Green, Hardy, Harris, Hartson, Hershey, Hynes, Josselyn, Lane, Leach, Leadbetter, Levee, Maguire, Mathews, May, Maybell, McCallion, McCarty of Lake, McCarthy of San Francisco, McComas, McIntosh, Morse, Mulholland, Picket, Sayle, Simon, Sherburne, Spencer, Stanley, Stoddard, Streeter, Sweetland, Walker, Ward, Wason of Ventura, Wattson, York, Young, and Mr. Speaker—64.

NOES—Messrs. Camron, Coleman, Downs, Messenger, and Nelson—5.

H. A. WEAVER, PRINTER,
237 J STREET, SACRAMENTO.

ERRATA.

Page 23, twenty-first line from top, for "deluge," read "delude."

REVENUE AND TAXATION.

I RISE under deep feelings of embarrassment and regret, inspired principally by the painful reflection that in the advocacy of this great constitutional measure I am in conflict with the wishes of many highly esteemed friends in and out of this House whose good will I crave, and for whose opinions I entertain the highest respect. Nothing but a strong sense of duty and a clear conviction of right has impelled me to take so decided a stand, and maintain it with whatever of vigor and ability I possess. Many know from their own personal experience how hard it is to resist the appeals of friendship, cemented by many years of close and friendly business relationship.

WENDELL PHILLIPS.

Some years ago, said that "it was the highest test and proof of a boy's courage to dare to differ from his father." We have here learned, in the crucible of legislation, that there are other things that test one's endurance and courage.

Dispassionately, I wish to enter upon the consideration of this grave question. Calmly and intelligently, unaffected by friendship, by interest or by passion, considering myself amenable to the law and to the people for the words that I may utter, and for the vote that I shall cast on this most vital measure.

RENEWAL OF THE CONTEST.

The people had a right to believe that by the ratification of the Constitution, by the verdict and solemn judgment of the people, expressed in the form of constitutional law, that their rights would be secure, and that this verdict should remain to them as the rainbow of promise until this session of the Legislature; when all of their just expectations and hopes would be realized in generous fruition.

The whole State is now looking to us with hope and expectation. We cannot afford to disappoint those hopes, nor dash to the ground

those expectations. It is a rash experiment to offer the people stones for bread, or serpents for fishes. As for me, I cannot, I dare not make the tender. Let such an undertaking be for those having different views and different purposes from those entertained by the friends of equal and uniform taxation.

THE HISTORY OF THIRTY YEARS—THE EQUILIBRIUM OF 1850 RESTORED
IN 1880.

The early periods of the history of this State were the golden periods, when none were what we now call rich, and none absolutely poor. At that time there was a degree of equality and independence in hope, expectation, ambition, and energy, and in business and social standing now unknown. Then the social and financial scales, subject to slight oscillations, remained in a state of equilibrium. Then there was a law on the statute book that the wealth of all should be made to support that Government from which it received its protection. Then the property of all was taxed alike. Then there was no favored class exempt from the operation of a law that should have been uniform in its operation as well as in its principle. Then, in the very beginning of our history, by universal consent, there was enacted a law that wealth in all of its diversified forms should be taxed. That credits, notes, dues, stocks, and bonds should be subjected to the same rule as herds and lands, and all tangible property.

CAUSES OF A CHANGE.

Since that era, in some cases by the display of great energies and foresight; in some cases by the fortuitous combination of causes; in some cases by accidental purchases and accidental holdings; in others by accidental mineral discoveries, colossal individual and corporate fortunes have grown up.

Now the equipoise of the social and financial—and as a consequence the judicial—scale is much disturbed, and general comfort and general prosperity no longer abound. We now have two distinct and widely separated classes; the one representing great wealth, and the other great poverty. The scales have changed to correspond with the changed condition of the people. One arm of the scale has risen high, and the other arm is correspondingly depressed. One side of the scales now represents opulence and power—and too often exaction—the other side of the scale represents penury, distress, and too often slavish submission.

COURTS, LAW, AND STATUTES FOLLOW THE CHANGE.

Times have changed, and with these changes come corresponding changes in statutes, in law, and in judicial decisions. Our political history, our statutory changes and judicial history are a reflex of our social and financial life and history. With the advancement of wealth and consequent power, step by step, and year by year we witness its encroachments and triumphs. The despotic power of accumulated millions has been seen and felt in the forum, in the Capitol, and in the Courts, overthrowing the early State policy, and imposing intolerable burdens upon those least able to endure them. This vitiated state of public sentiment produced the memorable and unfortunate decision in the Hibernia Bank Case, wherein it was decided that notes, dues, credits, bonds, and stocks, and everything pertaining to this class of wealth, were not property, but the shadow or representative of property; that nothing was property but tangible property, and that to tax both classes: tangible property, and notes, bonds, and stock, was double taxation, and ought not to be and would not be sanctioned or allowed by the Courts.

FATAL DECISION.

By this fell adjudication, the value of one half of all of the wealth of the State for the purposes of taxation was blotted out, and upon the remaining half was imposed the grievous charge of defraying the entire expenses of the Government. This decision administered great comfort to one class, but brought desolation and ruin to the other.

REAL ESTATE.

The landed interests of the State were crushed and shunned, owing to the superincumbent pressure of taxation. This great oppression of the rural districts and landed interests caused a destruction of industries and a paralysis of enterprise. In this conflict of elements the laborer was wrecked and left without friends or support. Then revolution with her gory mantle was seen in the near distance.

THE TIN PEDDLER.

As incredible as it may hereafter appear, the time had come in the history of this State when a tin peddler, with his pack of tin cups and tin pans on his back, was paying more tax and contributing

more to the revenues of the State, (providing he was taxed at all,) than all of the bondholders of San Francisco on their bonds.

THE WASH TUB.

As startling as it may hereafter appear, though the time had come, and the early, equal, and equitable laws of 1850 had been so ruthlessly changed that the widowed mother who spent her days over her wash tub, and her nights in stitching together the tattered garments of her children, paid more tax on her leaky tub and her half fed cow than the Bank of Nevada and all its baronial proprietors on their ten millions of dollars of paid up capital bank stock, and on their fifty millions of dollars of mining stocks beside. The Legislature and the Courts alike had prostrated themselves before the nobility of wealth and prerogative, and had united in inaugurating a system as greivous to be borne as that of Egypt under the reign of the Pharaohs.

THE NEW CONSTITUTION.

During this long period of depression, despondency, and gloom, the New Constitution was generated, and with its new light came hope to all classes in the State. On its broad escutcheon were (engraved) impressed in letters of imperishable light, *taxation shall be equal and equitable*. All classes of property, including notes, bonds, credits, dues, mortgages, and stocks—all property, real, personal, and mixed—shall be taxed.

In the year of 1880, after thirty years of wanderings and departures, the people have reasserted their rights, and returned to the principles and practices of the first year of the history of the State: the era of equality and justice. The language of the New Constitution is clear, perspicuous, and both minute and comprehensive, and is as follows:

ARTICLE XIII.

REVENUE AND TAXATION.

SECTION 1. All property in the State, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law. The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership: *provided*, that growing crops, property used exclusively for public schools, and such as may belong to the United States, this State, or to any county or municipal corporation within this State, shall be exempt from taxation. The Legislature may provide, except in the case of credits secure by mortgage or trust deed, for a deduction from credits of debts due to *bona fide* residents of this State.

By a large majority the people ratified the Constitution, and made it the irreversible law of the State. The time for debate has passed, and the verdict is rendered, and the judgment entered. From that decision there is no appeal. We are here assembled to enforce that judgment, under a mandate from the people. In conformity to that order and in the execution thereof, we have passed Assembly Bill No. 404.

The following sections are objected to, and the propriety and justice of their enactment controverted and denied, in their application to stocks and credits:

SECTION 1. Section thirty-six hundred and seven of the Political Code is hereby amended so as to read as follows:

SEC. 3607. All property in this State, not exempt under the laws of the United States, excepting growing crops, property used exclusively for public schools, and such as may belong to the United States, this State, or to any county, or municipal corporation, within this State, is subject to taxation. First—The term “property” includes moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership.

SEC. 5. Section thirty-six hundred and twenty-nine of said Code is hereby amended so as to read as follows: 6. All solvent credits, unsecured by deed of trust, mortgage, or other lien on real or personal property, due or owing to such person, or any firm of which he is a member, or due or owing to any corporation of which he is President, Secretary, Cashier, or Managing Agent, deducting from the sum total of such credits such debts only, unsecured by trust deed, mortgage, or other lien on real or personal property, as may be owing by such person, firm, or corporation, to *bona fide* residents of this State. No debt shall be so deducted unless the statement shows the amount of such debt and the person to whom it is owing; *provided*, in case of banks the statement is not required to show the debt in detail or to whom it is owing, but the Assessor shall have the privilege of examining the books of such banks to verify such statement.

SEC. 8. Section thirty-six hundred and forty of said Code is hereby amended so as to read as follows: Section 3640. Corporations, associations, and joint stock companies having their principal place of business in this State, shall be assessed with the market value of their capital stock, after deducting therefrom the value of all property assessed to them [in this State or elsewhere, of which such capital stock is the representative], and such capital stock shall not be assessed to the individual owners thereof. The owners or holders of capital stock in corporations, associations, and joint stock companies, whose principal place of business is not within the State, must be individually assessed for such stock.

Thus we have provided for the taxation of all classes of property enumerated in the Constitution, and we have endeavored to administer and enforce the Constitution with intelligence, with strictness, and with fidelity.

DEBTS DEDUCTED FROM CREDITS.

We have, in accordance with the permit and power contained in the Constitution by Subdivision Six of Section Five of the bill under discussion, allowed a deduction from credits debts due to *bona fide* residents of this State. The adoption of the system of taxing the residue

remaining to the person assessed, after deducting debts from credits—that is, of taxing one's real wealth and worth—will relieve every business and enterprising man from a very onerous and unjust estimate of property for the purposes of taxation, and will stimulate all business, and all industries, and all enterprises; and, I trust, will meet with the favor of this House, and the approbation of all intelligent and fair-minded men.

STOCKS.

The Constitution as above quoted, makes it the imperative duty of this Legislature to assess the stock of corporations, associations, and joint stock companies. By Section Eight of this bill, above quoted, it is provided that corporations having their organization and place of business in this State, shall be assessed with the market value of their capital stock, less the assessed value of all their property in this State or elsewhere.

REASONS FOR ASSESSING THE STOCK TO THE COMPANY.

First—We can always find the company to assess it, when organized, and having its principal place of business in this State.

Second—If we attempt to assess individual stockholders, the unsophisticated and small stockholders will be always found, and the great stockholders, like Flood and others, will have convenient partners in Nevada or Paris, who will at once, as far as possible, become the exponents of all their taxable wealth; or they will be tempted to become non residents, and thus evade the law. To tax individual stockholders, would result in offering, as it were, a premium to individuals to take up their residence elsewhere, to avoid taxation. In my judgment it would be better not to enact any law at all than to enact one that reaches only the unsuspecting small holders of stock, and allows the large ones all to escape its reach.

Third—To tax the company itself will be simple and effectual and just, for the same law reaches and affects all alike, and imposes the same burden upon all stockholders alike. This system results in equality in taxation, and the other in inequality. The one system will bring much revenue to the State from the rich; the other system will bring little revenue, and that from those not rich—the middle and poor classes.

Fourth—If the assessment of stock be made against the company

itself at its market value, then it is easy to ascertain the residue, by deducting all assessments of real and personal property made against such company from the value of its stock. This method is free from complication, easily understood, and avoids all complaint, or even suspicion, of double taxation, and results advantageously to the State, and will work justly and equitably and equally among the stockholders.

THE VOLUNTARY GRIEF AND LAMENTATIONS

Of some who express doubts of the propriety and legality of assessing capital stock is worthy of passing notice. Let us inquire what is a corporation? "It is the creature of the law, having some of the powers and duties of a natural person." (*Sec. 283 of Civil Code.*) The articles of incorporation must show the amount of *its capital stock*. (*Sub. 6, Sec. 290, of Civil Code.*) Article XII, Section Three, of the New Constitution, adopts the same language, ("capital stock,") in contradistinction to shares of capital stock. This difference is recognized by the decisions of Courts and by legislative enactments.

TO ASSESS CAPITAL STOCK,

Is to exercise no new or doubtful power. This practice dates back to the primal statutes of this State. It is to-day the accepted practice in the principal States of our Commonwealth. It has been found a system of great convenience, great utility, and impartial justice. This system of assessment has been adopted in legislation, sanctioned by general and almost uniform practice, and ratified by the highest legal tribunals in the land. Let the disconsolate dry up their tears and vote for this measure.

Again, whenever the corporation is not located within this State, stock must be taxed at its market value, which is its cash value in the hands of the holder, if it is taxed at all; and we have so provided for taxing it. We submit that this system of taxation of stocks under the Constitution, whose mandate is imperative, is reasonable, is just, and is expedient. We cannot conceive any other method that will be so liberal and just and equitable to the stockholders, and at the same time fully and strictly comply with Article XIII of the Constitution. And who can complain of any inequality or injustice in this method? No man, or corporation.

BILL NO. 404.

This is almost a repetition of the California Revenue Act of 1850, which is in the following language. (*See page 135 of Statutes 1850.*)

SEC. 4. The terms personal estate and personal property, as used in this Act, shall be construed to include all household furniture, goods, chattels, and money; all moneys at interest owing to the person to be taxed more than they pay interest for, and other debts owing to them from solvent persons more than they are indebted for, and all public stock in turnpikes, bridges, insurance companies, and moneyed corporations, whether within or without this State; also such portion of the capital of incorporated companies liable to taxation on their capital as shall not be vested in real estate.

SEC. 7. The owner or holder of stock in any incorporated company liable to taxation on its capital shall not be taxed as an individual on such stock. (*Sec. 7, page 136 of the same Act, Stat. 1850.*)

ILLINOIS.

The great State of Illinois, with its flourishing metropolis, abounding in companies, corporations, stocks, and wealth, has a law in many respects similar to the bill we advocate. (*See page 254, Statutes of Illinois, 1871-2.*)

SECTION 1. *Be it enacted, etc.,* that the property named in this section shall be assessed and taxed, except so much thereof as may be in this Act exempted. First—All real and personal property in this State. Second—All moneys, credits, bonds, or stocks and other investments: the shares of stock of incorporated companies and associations, and all other personal property. Third—The shares of capital stock of banks and banking companies doing business in this State. Fourth—The capital stock of companies and associations incorporated under the laws of this State.

SEC. 3. (*Page 255.*) Personal property shall be valued as follows: First—All personal property, except as herein otherwise directed, shall be valued at its fair cash value. Second—*Every credit* for a sum certain, payable either in money or labor, shall be valued at a fair cash value of the sum so payable. Fourth—The capital stock of all companies and associations now or hereafter created under the laws of this State shall be so valued by the State Board of Equalization as to ascertain and determine respectively the fair cash value of such capital stock, including the franchise over and above the assessed value of the tangible property of such company or association. Said Board shall adopt such rules and principles for ascertaining the fair cash value of such capital stock as to it may seem equitable and just; *provided*, that in all cases where the tangible property, or capital stock of any company or association, is assessed under this Act, the shares of capital stock of any such company or association shall not be assessed and taxed in this State. This clause (*proviso*) shall not apply to the capital stock or shares of capital stock of banks, organized under the general banking laws of this State.

NEW YORK.

New York, the center of trade and wealth and population, the chief city of the Western World, abounding in corporations and stocks (railroad, canal, mining, telegraph, and all others, in name too numerous, and in quantity too great to mention,) has the following law: (*Vol. 1. Revised Statutes of New York, page 932.*)

SEC. 4. The terms personal estate and personal property, whenever they occur in this chapter, shall be construed to include all household furniture, moneys, goods, chattels, debts due from solvent debtors, whether on account, contract, note, bond, or mortgage; public stocks, and stocks in moneyed corporations. They shall also be construed to include such portion of the capital of incorporated companies liable to taxation on their capital as shall not be invested in real estate.

SEC. 14. (Page 933.) The owner or holder of stock in any incorporated company liable to taxation on its capital shall not be taxed as an individual for such stock.

HIGHEST JUDICIAL DECISIONS.

The United States Supreme Court have not overlooked this question of taxing stocks, and have declared that they were taxable to the company or to the individual, or to both, at the discretion of the Legislature.

In the case of *Farrington v. Tennessee* (vol. 95, United States Supreme Court Reports,) the Court held that the capital stock and the shares of capital stock are distinct things. * * * It is subject to taxation like other property. The shares of capital stock are usually represented by certificates. Every holder is a *cestui que trust* to the extent of his ownership. The shares are held and may be bought and sold and taxed like other property. The capital stock and the shares may both be taxed, and it is not double taxation. The bank may be required to pay the tax out of its corporate funds, or be authorized to deduct the amount paid for each stockholder out of his dividends. * * * The capital stock and the shares of that stock in the hands of stockholders are different properties, and consequently distinct subjects of taxation. The exemption of the one is not of itself an exemption of the other, nor is the taxation of the one a tax upon the other.

I trust that all will agree with us that the system of taxation contained in Assembly Bill No. 404 is in harmony with the Constitution, is consistent with justice and reason, and is supported by the policy and practices of the great commercial States and marts of the Western Hemisphere.

WHAT ARE THE OBJECTIONS TO BILL 404, AND WHO ARE THE OBJECTORS?

The first proposition expressed in Bill No. 403 is in regard to double taxation, and is in the following language:

SECTION 1. Section thirty-six hundred and seven of the Political Code is amended to read as follows:

3607. All property in this State is subject to taxation, except property which, by the laws of the United States or the Constitution of this State, is exempt from taxation; but no property is subject to double taxation, or to be twice charged or assessed by the same tax, whatever be the manner or form in which the property or any right, title, interest, claim, or demand therein or thereto is owned, possessed, or held.

This clause was not prepared or inserted in the opposition bill by any friend of the New Constitution, and therefore deserves more than ordinary attention, careful inspection and scrutiny. The intention and purpose of this section, (if there was any purpose for its place in

Bill 403,) was to bring all of our enactments on revenue and taxation within the compass of the decision in the Hibernia Bank Case, which adjudged that bills, notes, bonds, and stocks were not property, but its shadows or representatives; and that there was no real property but tangible, and that nothing but tangible property was assessable or taxable to any one. Should this section be adopted, and the Court should repeat the decision referred to, there would be but little left of the New Constitution affecting revenue and taxation to consider. If such a result was not foreseen and intended by the author of this section, what rational purpose had he in view? It is unsafe to support a bill containing so insidious and dangerous a proposition. Was it not enough to have enacted laws in the usual form, declaring what property should be assessed, and how?

No former revenue bill of this State contains this siren language, these alluring words. In innocent and harmless appearances this bill is like the Trojan horse of ancient fame. And who can say that it is not as pregnant with hostile forces and armed enemies to the Constitution, in the character of Hibernian Bank decisions, as the instrument referred to was to Ancient Troy? Could such a bill pass, and the Court repeat the decision adverted to, we then would have a new edition of the stockholders and bondholders' millennium.

CERTAIN CREDITS, CLAIMS, AND DEMANDS TO BE DEEMED AND QUOTED
AS AN INTEREST IN THE PROPERTY OF CORPORATIONS.

Section of Bill 403 contains the following clause:

Credits, claims, and demands due, owing, or accruing to *bona fide* residents of this State, for or on account of money deposited with any savings and loan corporation, or other corporation doing a banking business in this State, and stock or shares of stock issued by a corporation organized under the laws of this State, held by *bona fide* residents of this State, shall, for the purposes of assessment and taxation, be deemed and treated as an interest in the property of such corporation.

By the last report of the Bank Commissioners we are informed that about seventy-three millions of dollars are on deposit with the various banks of this State. Should this Bill 403 pass, offering a premium of about two per cent to persons to deposit or to loan their money to banks, the sum would probably reach ninety millions. What clause in the New Constitution exempts banks, or those whom the banks owe, from the rule applicable to all others? Why give the money loaner acquittance from his tax of about two per cent if he will loan to a bank, (called depositing in a bank,) and perhaps a rotten

bank at that, or a bank that will withhold one third or one half of the interest received, and spend it in speculations or the riotous living of its managers? Why make others pay a premium of two per cent to the money lender to keep his money out of legitimate industries and enterprises, and loan it to no one but a bank? And, what is worse, make that class from whom the money is withheld pay the premium? Supposing that some confiding individual, after depositing ten thousand dollars with the Nevada Bank, should go to Mr. FLOOD and tell him that he must be deemed and treated as having an interest in the Bank of Nevada! Mr. LOUIS McLANE would probably inform him that for one purpose he had an interest, and that was to escape taxation; but if any one should be so simple as to claim it for any other purpose he would at once be accommodated with assistance to the other side of the door.

WHO COMPLAINS?

Who asks to have such a clause inserted in our statutes? Does the request come from any one of the ninety thousand who voted for the New Constitution? From what source do these propositions emanate? Most assuredly from some one that did not support the New Constitution, and who now ignores its clear terms and its very existence. It is too late now to dictate terms to this Legislature, as the Constitution must be its guide.

BANK DEPOSITORS.

This bill does not come from depositors. No depositor has petitioned this Legislature to violate the Constitution. No depositor has followed us to the committee room and insisted on the insertion of this clause. No; it is a very different class. It is done by those who live in princely style from depositors' money. This is the work of those who get

FAT SALARIES

From depositors' money, who handle even millions without giving one dollar's security or subjecting themselves to one dollar's liability. It comes from managers and directors thriving on others' earnings.

They (the bank managers) talk about the poor depositors, and seem much distressed about—not their large incomes, not their lucrative positions—but the poor depositor, whose *income* they are husbanding with so much care! They do not tell us of the number of rotten and

broken banks managed by MAHE, DUNCAN, and others, including PINNEY, who, according to reports well authenticated, were general managers of a large number of savings banks!

THE RIGHT OF OFFSET OF BANKS.

They do not tell us that banks can offset their debts against their credits, when the Assessor comes around. They do not tell us that those banks called savings banks, that have a paid up capital or reserve fund, or both, of three hundred thousand dollars, can loan on notes, bonds, stocks, or mortgages at their option, like commercial stock banks; that eleven of the principal savings banks in this State are untrammelled as any other bank in their management and system of business, as much so as the commercial banks; that heretofore all the losses to depositors have come — not from stock banks — but the so called savings banks; and that all can deduct their debts from their unsecured credits, and that all can so loan their deposits that the debts and credits will be equal, and not one cent of taxable property be found by the Assessor, arising from deposits.

A BRIBE.

It is related of Philip of Macedon that he found the difficulties to be overcome in conquering Athens so great that he resolved to bribe with gold a portion of its citizens to sell and betray their country.

The inducement held out to a large class of depositors, as we believe in palpable violation of the Constitution, so far as we know, has met no favorable response. Being friends of the New Constitution they have too much pride and principle to allow any paltry consideration to induce its violation.

AVOID PARTIALITY.

If a gratuity (a premium) is to be paid those having money to loan, why not let it accrue to the benefit of the farmer, and mechanic, the commoner? Why not enact that money deposited with or loaned to a farmer or merchant or mechanic, for the purposes of taxation, shall be deemed and treated as an interest in the property of such farmer, mechanic, or merchant, and not to be taxed to either party, as in the case of a loaner to a bank, for neither would pay? Could the purposes of this section be effected, nearly one hundred millions of dollars of taxable property would be blotted out, and that at the instance—not

of a single depositor—but of a Sacramento banker, who sent out printed circulars warning his patrons against voting for the New Constitution.

DOUBLE TAXATION THE ESSENCE OF BILL NO. 403.

The present assessment roll of this State contains something less than six hundred millions of taxable property. By Bill No. 404 that roll will be increased to more than eight hundred millions. To strike off the assessment of stocks and credits to the extent proposed in Bill No. 403, would reduce that roll at least

TWO HUNDRED MILLIONS.

This would relieve certain classes of property and persons to the extent of two hundred millions, and place that tax on other property and persons. The effect is this: that Mr. A, belonging to the favored class of money lenders or stock owners, escapes assessment and taxation altogether, and Mr. B, a farmer, a mechanic, or merchant, pays that tax—pays the tax of Mr. A. By this system the farmer and those of his class pay at least twenty-five per cent more than their share, and the privileged classes are acquitted to the same extent. This is somewhat like boys killing frogs: the fun is all on one side, and the suffering on the other.

While the advocates of Bill No. 403 stand with their mouths wide open denouncing double taxation, they are imposing it on the farmers and laboring classes in the most heinous form. The object of the New Constitution was to break up this *ring system*; and let its work be perfect.

CAMPAIGN SPEECHES.

It is refreshing to hear the opposition to this bill, in their zeal to obviate the legitimate and necessary construction to the language of the Constitution, with great apparent gravity quote at length—not the effusions of their own great lawyers and stumpers—but the words uttered by General HOWARD during the heat of the canvass preceding the constitutional election. The speeches of that campaign, with their exaggerations and predictions of bankruptcies and universal ruin, are still fresh in our recollection. What would be your opinion of the sanity of any man who should collect together the stump speeches of Mr. HOWARD, Mr. LANE, Mr. FITCH, Mr. BROWN, and others, and also the alarming declarations of the principal newspapers of the State, whose doleful predictions are still ringing in our ears, and

bind them all into books, and call those books commentaries on the Constitution! Can anything more unreasonable and more ridiculous be imagined? In all candor, let me ask if the author of such a book would not probably at once be charged with lunacy, and the production of the book alone be sufficient evidence to sustain the charge? With such specious and sophistical arguments some seek to affect and hold others' opinions and judgments and quiet others' consciences, while the Constitution is sapped and destroyed.

Why not tax loans to banks as well as to individuals? Why discriminate in favor of bank credits, which are bank dues, and bank loans? Why construe the Constitution as favoring or disfavoring any class? Why make one law for one person and another law for another? That is just what we are desired to do. That is just what we refuse to do.

CONSTITUTIONAL OATH.

The Constitution that we have sworn to support commands us to tax stocks, notes, bonds, credits, and all property. When I decline to obey the mandates of the fundamental law fairly and without evasion; when I depart from a course of rectitude and duty, from pusillanimous or cowardly fear or otherwise, may I have the manliness to leave this House, and leave it forever.

EVASION OF STOCK TAXATION.

We here insert some of the provisions of Bill No. 403 respecting taxation of stocks, by which the principle and the right to assess stocks are admitted, but the assessment so made that it becomes ineffective and nugatory in practice:

SEC. 8. Section thirty-six hundred and forty of the Political Code is amended so as to read as follows: 3640. A member of a firm must not be individually assessed for the property of the firm, nor any right, title, or interest therein: nor must a stockholder in a corporation, or a person owning or holding credits for money deposited with a savings and loan corporation, or other corporation doing a banking business, be individually assessed for the property of the corporation, or any right, title, or interest therein, except as hereinafter provided.

Also a portion of Section Eleven, same bill:

And provided further, that if all the property of a corporation which is subject to taxation is assessed, the stock issued by such corporation must be assessed to the owner or holder thereof only in the amount in which its market value exceeds its par value.

In order that banks and other corporations might both escape taxation together, they have been joined in the same sections, so that they might by association of forces mutually relieve and support each

other. The same powerful combination that opposed the formation and the ratification of the New Constitution are again co-operating to escape its legitimate compass and effect. And if this combination succeed, and enact that stock can be assessed to the owner or holder thereof only in the amounts in which its market value exceeds its par value, they will then through this Legislature for this year have accomplished what they failed to effect in the Convention and constitutional election: that is, defeat the principle of equal and uniform taxation in its practical effect.

This bill only taxes when the market value of stock is greater than the par value, and then the difference. What stocks are above par value to day? And if, perchance, there could be found any stock in that happy condition, by the declaration of dividends the stock would be reduced to or below par to-morrow. Under such a bill what mining stock would ever be taxed one farthing? What railroad stock would be subject to taxation under such a measure? The most that could be said for such a bill is that it would establish the principle of taxing stocks, and defeat the just ends. Not one cent of revenue would ever be raised under the provisions of this most extraordinary bill.

WHY NOT TAX DEEDS, AS WELL AS STOCKS?

We are often told that you may as well tax deeds as stocks. Who imparts to us this important information? Is it some person that voted for the New Constitution? No. We have not heard any complaints of this kind from any one of the great number (about ninety thousand) that voted for the New Constitution. They all wish us honestly, squarely, and fully to carry out the New Constitution in letter and spirit, hit whom it may, and regardless of the protests of power and prerogative. Why should a deed be taxed the same as stocks? What analogy is there between stocks and deeds? Deeds are not bought and sold in the market. Stocks are the subject of daily sale and purchase. Deeds have no intrinsic value; stocks have. The purpose and effect of a deed is to pass, to convey title of realty, as from A to B, as a bill of sale does personal property; or as transfer wagons do property from place to place. It is as irrational to talk of taxing deeds, to reach the property conveyed, as it would be to tax bills of sale to reach the property sold or transferred.

Again, the Constitution does not enact that deeds shall be taxed, but it requires and commands that stocks shall be taxed, and who shall gainsay or defy it?

WHO ARE THE OBJECTORS TO BILL 404?

Those who count and measure and multiply their rights by dollars, their privileges by stocks, and their immunities by bonds. To this class do not belong those in whose hands money is a benign power—the highest blessing. Money in the hands of some develops the most manly and noble character; stimulates the loftiest purposes, the most benevolent sentiments, and the most philanthropic acts. This is not the class that object to equal taxation. This is not the class that have pressed this Legislature to forego the strict enforcement of the provisions of the Constitution. This is not the class that have sought to have their property and their business relieved from the burdens of government, and to have those burdens unjustly and unfairly imposed on others. The mining companies, the banking companies, and the railroad companies, are united in the work of forestalling what we conceive to be the just and fair and equal operation of this law fundamental, right and imperative.

RAILROAD.

Undoubtedly to the fearless resolution, to the bold adventure, to the grand work, and to the lofty and comprehensive policy of Governor STANFORD and his associates, the State is indebted for its magnificent system of railroads, reaching from Oregon to Arizona, and from the Pacific to the Wasatch Mountains, with its untold facilities and its vast contribution to the industrial and commercial wealth of this State. Let no one underestimate the great and useful work of these distinguished men. Yet, while they have contributed much to the growth and wealth of the State and Nation, the State and Nation have not been unmindful of them, their enterprises, and their interests. The various counties of the State and the State itself have poured millions into the treasury of this company to make the members thereof strong and powerful—but not masters.

The largesses from the General Government to this company have been so vast as to run high in the tens of millions, and there is but one other grant so enormous in the whole history of the Republic. There is no just reason why there should not be, on the part of this great corporation and all others, complete submission to constitutional law. I would not allow any high merit on their part, or high personal esteem on mine, to relieve them from the equal application of the law, or from the common burden of taxation. I would strictly

and stringently enforce on all alike the system of taxation provided in the Constitution.

THEY WILL FLEE BEFORE TAXATION.

Said a gentlemen on this floor, if you tax the stock of companies, they will leave the State; they will not submit to taxation. Some capitalists have already left the State and gone to Chicago and New York. Does any one think that they will escape taxation by going to the City of Chicago, so recently laid in ruins by the great fires? And in a State where "all moneys, credits, bonds, stocks, and other instruments, and the shares of stock" are taxed, and in the case of banks, both against the bank and against the shareholder? Will they get relief by going to a city that has taxed these worthless mining stocks at their pretended par value? What gratification or especial pleasure our capitalists may find in going to the home of TWEED, where he has built up colossal debts for them to pay, I cannot conceive. When they learn that notes, bonds, and stocks are taxed; and that the liberal deductions made in Bill 404 are not made in New York, it may cool and refresh the gentlemen who seek relief in other parts from taxation to which they have been strangers here.

The section in the New York law affecting deduction from the value of the capital stock reads as follows:

"The term personal estate and personal property shall be construed to include such portion of the capital of incorporated companies liable to taxation on their capital as shall not be invested in real estate." Further: "The owners of stock in any incorporated company liable to taxation on its capital shall not be taxed as an individual on such stock."

In this State, by Bill No. 404, we deduct from the value of the capital stock not only what is invested in real estate, but we go further and deduct also all personal property, in ascertaining the assessable value of stock.

In Illinois this method of assessing stock is the same provided by Bill 404, and they deduct from the value of the stock the assessed value of all tangible property. We go further; we deduct not only tangible property, but intangible also, such as notes, bonds, and other securities. We fail to discover any relief arising to our sorely oppressed capitalists by fleeing to the city of great fires, great

losses, and great taxation; or to the city distinguished for TWEED's great conquests and marvelous encroachments on the funds of the City Treasurer. Gotham is greatly in need of replenishing her treasury to the extent of one hundred and thirty millions, and our abused capitalists will have a hearty reception there; and all of their notes, bonds, and stocks will be carefully listed and thoroughly taxed on their arrival.

SAYS SOME WEAK BROTHER, CORPORATIONS WILL NOT PAY.

You cannot collect it if assessed against the company. Why not? Because they will not pay it, and you cannot enforce the assessment, says the objector. We assess the corporation now on all of their real and personal property. When this assessment is made, no one disputes the propriety or policy because they will not pay. Under the law they are assessed, and by the law that assessment can be enforced and collected. An assessment and tax becomes a debt in favor of the State and against the party assessed, and now we waste no time in suits and in the law's delays. A few years ago, if a party owing a certain amount of tax did not pay he was sued, and a judgment was taken against him, and an execution was issued, etc. What reason is there why we shall not enact such a law again if they will not pay, and first

SELL OUT CORPORATION EFFECTS,

And next the stockholders' effects in like manner as with other claims against corporations? If they decline to act the honest part, it is not difficult to make them honest. Should most of these companies now sucking the life blood of community burst up and beat an execution by flight, our community can rejoice—give them a benediction as they go.

THE IRREVERSIBLE RULE.

The rule of taxation in the two great States mentioned, and in nearly every State in the Union is in harmony with our Constitution. The mandate to tax credits and stocks is engraven in the Constitution in unmistakable language. In this respect our law to-day is the same that it was before the enchanting wand of wealth produced its bitter and rotten fruit. Such was natural justice before the dazzling light of capital and corporations gleamed upon it, with its delusive, fascinating, and bewitching sorcery. Remove the charms of prerogative

and power, and the meaning of the words "stocks and credits" will be so simple and so plain that even a wayfaring man would not mistake it.

So far as I am concerned I have no trouble in so construing that language as to tax all credits, all stocks, and all property. I am decidedly, in favor of rolling back and off the industries and lands of this State and back on the bondholders and stockholders, the great burden of taxation that belongs to the latter classes to bear. I came here to do a great constitutional duty. I promised the suffering men and women of my home, when elected, that I would stand up for their rights against power, and wealth, and prerogative. I am here by my voice and vote to fulfill that promise. My judgment approves this measure; and the work done for its accomplishment is the work of my hand and my heart as well as of my intellect.

FAILURE NOW IS A CALAMITY.

We cannot afford to fail in the enforcement of any of these important constitutional principles even temporarily. There is no safety if one of its great principles is disregarded; for this leads to and justifies the disregard of all of the other provisions. The whole instrument should remain entire, unsullied, and impregnable. Let the siege be once successful; let a permanent breach be made in its constitutional ramparts, so as to admit the enemy within the walls, and we can with lasting regret adopt the sad expression of the great commoner and statesman O'CONNELL on the defeat of an important measure—

Last year we watched at its cradle;
Now we follow its hearse.

MINING COMPANIES.

There are two classes of mining companies. There is a class of meritorious, well managed, and dividend paying mines; as this class do an honest and legitimate business, they ought not to be opposed to an honest and legitimate tax. The second class are stock gambling companies.

STOCK GAMBLING DENOUNCED.

I propose now to consider those mining companies without merit, without values, without reasonable expectations or genuine character. The mining stocks of the latter class have, by the various arts and

appliances of the trade, a fictitious and false character. These companies conducted by human vultures are permitted by our laws to organize and wear the panoply of state in the marts of trade, and in our great metropolis of wealth, population, and commerce, and impose their glittering, delusive, and worthless stocks upon the trustful and confiding. They not only establish their swindling companies under all the forms of law, but they receive the protection of the State while carrying on their deceptive, destructive, and nefarious pursuits. By law these stock jobbers are afforded the opportunity to enrich themselves at the expense of the hopeful, the imaginative, and the confiding. The great majesty of the State gives them security in their ignoble pursuits, and why should they not pay for these privileges, laws, and securities? I might, with more propriety, ask why the State should not be protected against these human cormorants, against these parasites gnawing at the great tree of social and business life?

WHAT PEN CAN PICTURE,

And what eloquence of tongue portray the dire result of this traffic in stocks? What demoralizing and ruinous effects follow in its train? What sudden expansions and sudden contractions occur by which the unsophisticated are ensnared and ruined, and the coffers of the managers filled? What sudden shocks, frights, panics, and depressions attend stock manipulations and stock deals, followed by widespread disasters and bankruptcies? See what a havoc of health, of comfort, of fortune, and happiness succeeds these piratical stock deals and stock swindles. How many of its pale and wan victims daily present their wasted and wretched forms in our streets? How many premature grey hairs and premature graves? How many crushed and broken hearts and blighted lives? How many have sought to hide their calamities and misfortunes in the intoxicating and oblivious cup, the cup of death? How many homes have been visited with destitution, want and misery? How many have sought relief from intolerable life in the sad grave of the suicide? All, all victims of this accursed traffic. The great day of retribution alone can reveal the woe and wretchedness of the hell of stock gambling. And we are gravely asked not only to tolerate, but to relax the operation of the law, so as to encourage this system of wholesale robbery and destruction. It is proposed that those engaged in legitimate industry and trade shall be taxed, but that the pirate

on our commerce may practice his illegitimate calling under the protection of the law without contributing to its support, and without sharing in its burdens.

A HALT DEMANDED.

It is full time that the stock gamblers should be brought to a halt in their merciless career by the rigor of the law, and, if this bill discovers and discloses their real vileness and worthlessness, and should become a scourge and drive these sons of Satan from their fastnesses down into the great sea whither their progenitors sought refuge, its passage will be hailed with delight, and those who support it will receive the plaudits and benedictions of a grateful people.

OUR GREAT DUTY.

The duty imposed on us is to see that the Constitution is fairly construed and strictly enforced. To whom can the people look for protection in case we decline to fulfill our mission here? The adoption of this Constitution gave great tranquillity to the State. The great popular unrest was quieted by the anticipation of relief through this Legislature. Let us not disturb that tranquillity, but place it on a permanent basis. The only protection of the people against the undue influence of encroaching wealth and greedy, sordid power with their sleepless agents, ever present to deluge and ensnare, is in preserving this Constitution intact. This Constitution is the people's protection, their defense against arrogance and artifice and power. We believe that the bill now under consideration, supported by a majority of the Committee of the Assembly, is in strict compliance with the mandates of the Constitution, and that by it the people's rights will be maintained.

PASS THIS GREAT MEASURE.

It will restore confidence. It will revive industries. It will stimulate commerce. It will cause money to return to its normal and accustomed channels, promoting useful enterprises. It will bring back prosperity to the whole State. Under equal laws and equal burdens unity, peace, and brotherhood will return. Let us stand for the right, for justice, and for constitutional law, and untold progress and happiness will follow. How can we—how dare we—go home and tell our constituents that we were dazzled by the meteoric

showers of gold, and could not see, or that we were enchanted by power and prerogative, and were bewildered and lost; or that we were magnetized by some unknown hand; that reason was dethroned, and that we failed to support the people's cause in this their great extremity. Vengeance will surely come if we disregard a plain duty, and in all of the walks of life, in its long and dreary future, we will feel the scorn and contempt of those whose trusts have been betrayed; and worse than all else, in our secret heart we will feel that it is deserved. I do not believe that the people will be baffled and beaten. If beaten to-day, they will soon rise again with renewed strength and resolution, and through more faithful representatives rescue their Constitution from defeat and reproach. Under any and all circumstances this great and useful measure shall receive the sanction of my unqualified approbation and support.



RETURN
TO →

CIRCULATION DEPARTMENT
202 Main Library

642-3403

LOAN PERIOD 1
HOME USE

2

3

4

5

6

ALL BOOKS MAY BE RECALLED AFTER 7 DAYS

1-month loans may be renewed by calling 642-3405

6-month loans may be recharged by bringing books to Circulation Desk

Renewals and recharges may be made 4 days prior to due date

DUE AS STAMPED BELOW

RECEIVED BY

JUL 15 1981

JUN 26 1985

CIRCULATION DEPT.

FEB 13 1983

APR 16 2000

REC. CIR. MAY 4 '82

MAY 16 1984

REC. CIR. MAY 11 '84

LIBRARY USE ONE

JUN 26 1980

CIRCULATION DEPT.

FORM NO. DD 6, 40m, 6'76

UNIVERSITY OF CALIFORNIA, BERKELEY
BERKELEY, CA 94720

© 1

LD21A-50m-2,'71
(P2001s10)476--A-32

General Library
University of California
Berkeley

